DEVELOPMENT AGREEMENT NO.

This Development Agreement (hereinafter “Agreement”) is entered into effective on the date it is recorded with the Riverside County Recorder (hereinafter the “Effective Date”) by and among the COUNTY OF RIVERSIDE (hereinafter “COUNTY”), and the persons and entities listed below (hereinafter “OWNER”):

[As required by Section 103 of the *Procedures and Requirements of the County of Riverside for the Consideration of Development Agreements*, all owners of fee simple title to all or any part of the real property which is the subject of a development agreement shall be necessary parties to the agreement. Also, any person having a legal or equitable interest in such real property who is reasonably necessary to ensure the full implementation and performance of the development agreement throughout its term shall be a necessary party. No hearing on a development agreement shall be held until and unless all necessary parties have agreed in writing to join in the application of the development agreement.]

RECITALS

WHEREAS, COUNTY is authorized to enter into binding development agreements with

persons having legal or equitable interests in real property for the development of such property, pursuant to Article 11, Section 7 of the California Constitution and Section 65864, et seq. of the

Government Code; and,

WHEREAS, COUNTY has adopted Procedures and Requirements of the County of Riverside for the Consideration of Development Agreements (hereinafter “Procedures and Requirements”), pursuant to Section 65865 of the Government Code; and,

WHEREAS, OWNER has requested COUNTY to enter into a development agreement and proceedings have been taken in accordance with the Procedures and Requirements of COUNTY; and,

WHEREAS, by electing to enter into this Agreement, COUNTY shall bind future Boards of Supervisors of COUNTY by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of COUNTY; and,

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by COUNTY and the Board of Supervisors and have been found to be fair, just and reasonable; and,

WHEREAS, the best interests of the citizens of Riverside County and the public health, safety and welfare will be served by entering into this Agreement; and,

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement; and,

WHEREAS, this Agreement and the Project are consistent with the Riverside County Comprehensive General Plan and any Specific Plan applicable thereto; and,

WHEREAS, all actions taken and approvals given by COUNTY have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and,

WHEREAS, this Agreement will confer substantial private benefits on OWNER by granting vested rights to develop the Property in accordance with the provisions of this Agreement; and

WHEREAS, development of the Property in accordance with this Agreement will provide substantial benefits to COUNTY and will further important policies and goals of COUNTY; and,

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property, ensure progressive installation of necessary improvements, provide for public services appropriate to the development of the Project, and generally serve the purposes for which development agreements under Sections 65864, et seq. of the Government

Code are intended; and,

[WHEREAS, on , 20\_ , Community Facilities/Special Assessment District No.

was formed by County Resolution No. pursuant to a petition, executed by

OWNER, requesting the District to be formed and consenting to said District being formed to provide a financing mechanism to pay for the construction of certain public facilities that would benefit the Property and OWNER advanced those monies needed to pay all costs associated with forming said District and retained and paid civil engineers to design and engineer the public facilities to be constructed, and said public facilities were designed to benefit the Property and certain of the facilities may have been oversized to benefit adjacent properties and the public at large; and,

WHEREAS, on , 20\_ , bonds totaling an aggregate principal amount of

$ have been sold and issued by Community Facilities District/Special Assessment

District No. pursuant to Resolution No. ; and]

[WHEREAS, OWNER has completed and filed an application and petition with COUNTY requesting the formation of a Community Facilities District/Special Assessment District that will include the Property to provide a financing mechanism to pay for the construction of certain public facilities that will benefit the Property and authorize said District to issue and sell bonds in an aggregate principal amount of not to exceed $ ; and]

WHEREAS, OWNER has incurred and will in the future incur substantial costs in order to assure development of the Property in accordance with this Agreement; and,

WHEREAS, OWNER has incurred and will in the future incur substantial costs in excess of the generally applicable requirements in order to assure vesting of legal rights to develop the Property in accordance with this Agreement.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.
   1. Definitions. The following terms when used in this Agreement shall be defined as

follows:

* + 1. “Agreement” means this Development Agreement.
    2. “COUNTY” means the County of Riverside, a political subdivision of the State of California.
    3. “Development” means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping. When authorized by a Subsequent Development Approval as provided by this Agreement, “development” includes the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof
    4. “Development Approvals” means all permits and other entitlements for use subject to approval or issuance by COUNTY in connection with development of the Property including, but not limited to:
       1. Specific plans and specific plan amendments;
       2. Zoning;
       3. Tentative and final subdivision and parcel maps;
       4. Conditional use permits, public use permits and plot plans;
       5. Grading and building permits.
    5. “Development Exaction” means any requirement of COUNTY in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests.
    6. “Development Plan” means the Existing Development Approvals and the Existing Land Use Regulations applicable to development of the Property.
    7. “Effective Date” means the date this Agreement is recorded with the County Recorder.
    8. “Existing Development Approvals” means all Development Approvals approved or issued prior to the Effective Date. Existing Development Approvals includes the Development Approvals incorporated herein as Exhibit “C” and all other Development Approvals which are a matter of public record on the Effective Date.
    9. “Existing Land Use Regulations” means all Land Use Regulations in effect on the Effective Date. Existing Land Use Regulations includes the Regulations incorporated herein as Exhibit “D” and all other Regulations which are a matter of public record on the Effective Date.
    10. “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of COUNTY governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings and structures, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the property. “Land Use Regulations” does not include any COUNTY ordinance, resolution, code, rule, regulation or official policy, governing:
        1. The conduct of businesses, professions, and occupation
        2. Taxes and assessments;
        3. The control and abatement of nuisances;
        4. The granting of encroachment permits and the conveyance of rights

and interests which provide for the use of or the entry upon public property;

* + - 1. The exercise of the power of eminent domain.
    1. “Mortgagee” means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.
    2. “OWNER” means the persons and entities listed as OWNER on the first page of this Agreement and their successors in interest to all or any part of the Property.
    3. “Project” means the development of the Property contemplated by the Development Plan as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.
    4. “Property” means the real property described on Exhibit “A” and shown on Exhibit “B” to this Agreement.
    5. “Reservations of Authority” means the rights and authority excepted from the assurances and rights provided to OWNER under this Agreement and reserved to COUNTY under Section 3.6 of this Agreement.
    6. “Subsequent Development Approvals” means all Development Approvals required subsequent to the Effective Date in connection with development of the Property.
    7. “Subsequent Land Use Regulations” means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.
    8. “Transfer” means sale, assignment, lease, sublease or any other transfer of a legal or equitable interest in the Property.
  1. Exhibits. The following documents are attached to, and by this reference made a

part of, this Agreement:

Exhibit “A” -- Legal Description of the Property. Exhibit “B” -- Map Showing Property and its Location. Exhibit “C” -- Existing Development Approvals.

Exhibit “D” -- Existing Land Use Regulations. Exhibit “E” – Public Facility Credits.

1. GENERAL PROVISIONS.
   1. Binding Effect of Agreement. The Property is hereby made subject to this

Agreement. Development of the Property is hereby authorized and shall be carried out only in accordance with the terms of this Agreement.

* 1. Ownership of Property. OWNER represents and covenants that it is the owner of

the fee simple title to the Property or a portion thereof.

* 1. Term. The term of this Agreement shall commence on the Effective Date and shall

continue for a period of years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement. [The maximum term for a Project that consists entirely of residential or residential/mixed use development is 30 years unless the Board of Supervisors determines that a longer or shorter term is appropriate based on special circumstances applicable to the project. See Section 206 of the *Procedures and Requirements of the County of Riverside for the Consideration of Development Agreements*.]

* 1. Transfer.
     1. Right to Transfer. OWNER shall have the right to transfer the Property in

whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, et seq., or Riverside County Ordinance No. 460) to

any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such transfer shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement and be made in strict compliance with the following conditions precedent:

* + - 1. No transfer of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property.
      2. Concurrent with any such transfer or within fifteen (15) business days thereafter, OWNER shall notify COUNTY, in writing, of such transfer and shall provide COUNTY with an executed agreement by the transferee, in a form reasonably acceptable to COUNTY, providing therein that the transferee expressly and unconditionally assumes all the duties and obligations of OWNER under this Agreement.

Any transfer not made in strict compliance with the foregoing conditions shall constitute a default by OWNER under this Agreement. Notwithstanding the failure of any transferee to execute the agreement required by Paragraph (b) of this Subsection 2.4.1, the burdens of this Agreement shall be binding upon such transferee, but the benefits of this Agreement shall not inure to such transferee until and unless such agreement is executed.

* + 1. Release of Transferring Owner. Notwithstanding any transfer, a

transferring OWNER shall continue to be obligated under this Agreement unless such transferring OWNER is given a release in writing by COUNTY, which release shall be provided by COUNTY upon the full satisfaction by such transferring OWNER of the following conditions:

* + - 1. OWNER no longer has a legal or equitable interest in all or any part of the Property.
      2. OWNER is not then in default under this Agreement.
      3. OWNER has provided COUNTY with the notice and executed agreement required under Paragraph (b) of Subsection 2.4.1 above.
      4. The transferee provides COUNTY with security equivalent to any security previously provided by OWNER to secure performance of its obligations hereunder.
    1. Subsequent Transfer. Any subsequent transfer after an initial transfer shall

be made only in accordance with and subject to the terms and conditions of this Section.

* + 1. Partial Release of Purchaser, Transferee or Assignee of Industrial or

Commercial Lot. A purchaser, transferee or assignee of a lot, which has been finally

subdivided as provided for in the Development Plan and for which a commercial or industrial plot plan for development of the lot has been finally approved pursuant to the Development Plan, may submit a request, in writing, to COUNTY to release said lot from the obligations under this Agreement relating to all other portions of the property. Within thirty (30) days of such request, COUNTY shall review, and if the above conditions are satisfied shall approve the request for release and notify the purchaser, transferee or assignee in writing thereof. No such release approved pursuant to this Subsection 2.4.4 shall cause, or otherwise affect, a release of OWNER from its duties and obligations under this Agreement.

* + 1. Termination of Agreement With Respect to Individual Lots Upon Sale to

Public and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply

to the sale or lease (for a period longer than one year) of any lot which has been finally subdivided and is individually (and not in “bulk”) sold or leased to a member of the public or other ultimate user. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any lot and such lot shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions

* + - 1. The lot has been finally subdivided and individually (and not in “bulk”) sold or leased (for a period longer than one year) to a member of the public or other ultimate user; and,
      2. A Certificate of Occupancy has been issued for a building on the lot, and the fees set forth under Section 4 of this Agreement have been paid.
  1. Amendment or Cancellation of Agreement. This Agreement may be amended or

cancelled in whole or in part only by written consent of all parties in the manner provided for in Government Code Section 65868. This provision shall not limit any remedy of COUNTY or OWNER as provided by this Agreement.

* 1. Termination. This Agreement shall be deemed terminated and of no further effect

upon the occurrence of any of the following events:

1. Expiration of the stated term of this Agreement as set forth in Section 2.3.
2. Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.
3. The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement.
4. Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by COUNTY or applicable public agency of all required dedications.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination or with respect to any obligations which are specifically set forth as surviving this Agreement.

* 1. Notices.

1. As used in this Agreement, “notice” includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance,

consent, waiver, appointment or other communication required or permitted hereunder.

1. All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; (iii) on the next business day when delivered by overnight United States mail or courier service; or (iv) on the date of delivery shown in the facsimile records of the party sending the facsimile after transmission by facsimile to the recipient named below. All notices shall be addressed as follows:

If to COUNTY:

Clerk of the Board of Supervisors County of Riverside

P.O. Box 1147

Riverside, CA 92502-1147

Fax No. (951)955-1071

with copies to:

County Executive Officer County of Riverside

4080 Lemon Street, 4th Floor Riverside, CA 92501-3679

Fax No. (951)955-1105

and

TLMA Director

Transportation and Land Management Agency County of Riverside

4080 Lemon Street, 14th Floor Riverside, CA 92501

Fax No. (951)955-5177

and

County Counsel County of Riverside

3960 Orange Street, Fifth Floor Riverside, CA 92501

Fax No. (951)955-6363

If to OWNER:

with a copy to:

1. Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.
2. DEVELOPMENT OF THE PROPERTY.
   1. Rights to Develop. Subject to the terms of this Agreement including the

Reservations of Authority, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. The Project shall remain subject to all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Development Plan.

* 1. Effect of Agreement on Land Use Regulations. Except as otherwise provided

under the terms of this Agreement including the Reservations of Authority, the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of

the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to development of the Property shall be the Existing Land Use Regulations. In connection with any Subsequent Development Approval, COUNTY shall exercise its discretion in accordance with the Development Plan, and as provided by this Agreement including, but not limited to, the Reservations of Authority. COUNTY shall accept for processing, review and action all applications for Subsequent Development Approvals, and such applications shall be processed in the normal manner for processing such matters.

* 1. Timing of Development. The parties acknowledge that OWNER cannot at this

time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of OWNER, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37

Cal.3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties’ agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that OWNER shall have the right to develop the Property in such order and at such rate and at such times as OWNER deems appropriate within the exercise of its subjective business judgment, subject only to any timing or phasing requirements set forth in the Development Plan or the Phasing Plan set forth in Section 3.4.

* 1. Phasing Plan. Development of the Property shall be subject to all timing and

phasing requirements established by the Development Plan. [In addition, the following timing and phasing requirements shall apply to development of the Property:

]

* 1. Changes and Amendments. The parties acknowledge that refinement and further

development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event OWNER finds that a change in the Existing Development Approvals is necessary or appropriate, OWNER shall apply for a Subsequent Development Approval to effectuate such change and COUNTY shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. If approved, any such change in the Existing Development Approvals shall be incorporated herein as an addendum to Exhibit “C”, and may be further changed from time to time as provided in this Section. Unless otherwise required by law, as determined in COUNTY's reasonable discretion, a change to the Existing Development Approvals shall be deemed “minor” and not require an amendment to this Agreement provided such change does not:

1. Alter the permitted uses of the Property as a whole; or,
2. Increase the density or intensity of use of the Property as a whole; or,
3. Increase the maximum height and size of permitted buildings or structures;

or,

1. Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,
2. Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.
   1. Reservations of Authority.
      1. Limitations, Reservations and Exceptions. Notwithstanding any other

provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Property.

* + - 1. Processing fees and charges of every kind and nature imposed by COUNTY to cover the estimated actual costs to COUNTY of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued.
      2. Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.
      3. Regulations governing construction standards and specifications including, without limitation, the Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and Grading Code applicable in the COUNTY.
      4. Regulations imposing Development Exactions; provided, however, that no such subsequently adopted Development Exaction shall be applicable to development of the Property unless such Development Exaction is applied uniformly to development, either throughout the COUNTY or within a defined area of benefit which includes the Property. No such subsequently adopted Development Exaction shall apply if its application to the Property would physically prevent development of the Property for the uses and to the density or intensity of development set forth in the Development Plan.
      5. Regulations which may be in conflict with the Development Plan but which are reasonably necessary to protect the public health and safety. To the extent possible, any such regulations shall be applied and construed so as to provide OWNER with the rights and assurances provided under this Agreement.
      6. Regulations which are not in conflict with the Development Plan.

Any regulation, whether adopted by initiative or otherwise, limiting the rate or timing of development of the Property shall be deemed to conflict with the Development Plan and shall therefore not be applicable to the development of the

Property.

* + - 1. Regulations which are in conflict with the Development Plan provided OWNER has given written consent to the application of such regulations to development of the Property.
    1. Subsequent Development Approvals. This Agreement shall not prevent

COUNTY, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations which do not conflict with the Development Plan, nor shall this Agreement prevent COUNTY from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan.

* + 1. Modification or Suspension by State or Federal Law. In the event that State

or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

* + 1. Intent. The parties acknowledge and agree that COUNTY is restricted in its

authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to COUNTY all of its police power which cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to COUNTY all such power and authority which cannot be restricted by contract.

* 1. Public Works. If OWNER is required by this Agreement to construct any public

works facilities which will be dedicated to COUNTY or any other public agency upon completion, and if required by applicable laws to do so, OWNER shall perform such work in the same manner and subject to the same requirements as would be applicable to COUNTY or such other public agency should it have undertaken such construction.

* 1. Provision of Real Property Interests by COUNTY. In any instance where OWNER

is required to construct any public improvement on land not owned by OWNER, OWNER shall at its sole cost and expense provide or cause to be provided, the real property interests necessary for the construction of such public improvements. In the event OWNER is unable, after exercising reasonable efforts, including, but not limited to, the rights under Sections 1001 and 1002 of the Civil Code, to acquire the real property interests necessary for the construction of such public improvements, and if so instructed by OWNER and upon OWNER'S provision of adequate security for costs COUNTY may reasonably incur, COUNTY shall negotiate the purchase of the necessary real property interests to allow OWNER to construct the public improvements as required by this Agreement and, if necessary, in accordance with the procedures established by law, use its power of eminent domain to acquire such required real

property interests. OWNER shall pay all costs associated with such acquisition or condemnation proceedings. This Section 3.8 is not intended by the parties to impose upon the OWNER an enforceable duty to acquire land or construct any public improvements on land not owned by OWNER, except to the extent that the OWNER elects to proceed with the development of the Project, and then only in accordance with valid conditions imposed by the COUNTY upon the development of the Project under the Subdivision Map Act, Government Code Section 66410 et seq. or other legal authority.

* 1. Regulation by Other Public Agencies. It is acknowledged by the parties that other

public agencies not within the control of COUNTY possess authority to regulate aspects of the development of the Property separately from or jointly with COUNTY and this Agreement does not limit the authority of such other public agencies. For example, pursuant to Government Code Section 66477 and Section 10.35 of Riverside County Ordinance No. 460, another local public agency may provide local park and recreation services and facilities and in that event, it is permitted, and therefore shall be permitted by the parties, to participate jointly with COUNTY to determine the location of land to be dedicated or in lieu fees to be paid for local park purposes, provided that COUNTY shall exercise its authority subject to the terms of this Agreement.

* 1. Tentative Tract Map Extension. Notwithstanding the provisions of Section

66452.6 of the Government Code, no tentative subdivision map or tentative parcel map, heretofore or hereafter approved in connection with development of the Property, shall be granted an extension of time except in accordance with the Existing Land Use Regulations.

* 1. Vesting Tentative Maps. If any tentative or final subdivision map, or tentative or

final parcel map, heretofore or hereafter approved in connection with development of the Property, is a vesting map under the Subdivision Map Act (Government Code Section 66410, et seq.) and Riverside County Ordinance No. 460 and if this Agreement is determined by a final judgment to be invalid or unenforceable insofar as it grants a vested right to develop to OWNER, then and to that extent the rights and protections afforded OWNER under the laws and ordinances applicable to vesting maps shall supersede the provisions of this Agreement. Except as set forth immediately above, development of the Property shall occur only as provided in this Agreement, and the provisions in this Agreement shall be controlling over any conflicting provision of law or ordinance concerning vesting maps.

1. PUBLIC BENEFITS.
   1. Intent. The parties acknowledge and agree that development of the Property will

detrimentally affect public interests which will not be fully addressed by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on OWNER which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on OWNER by providing more fully for the satisfaction of the public interests.

* 1. Public Benefits for Residential or Residential/Mixed Use Projects.
     1. Description of Significant Public Benefits.

[As required by Section 203 of the *Procedures and Requirements of the County of Riverside for the Consideration of Development Agreements*, a development agreement for a project that includes residential development shall include provisions requiring the construction of major public infrastructure and/or dedication of open space land above and beyond that required to mitigate project impacts; payment of development agreement fees; or any combination of the aforementioned public impacts. Applicant and County to negotiate what these provisions will be.]

* + 1. Timeline for Construction of Major Public Infrastructure.
    2. Amount of Public Facilities Fee (if applicable). OWNER shall pay to

COUNTY a public facilities fee in the amount of for each residential unit constructed on the Property. The amount of the public facilities fee shall be adjusted annually as provided in Subsection 4.2.6.

* + 1. Amount of Public Services Offset Fee (if applicable). OWNER shall pay to

COUNTY a public services offset fee in the amount of for each residential unit constructed on the Property. The amount of the public services offset fee shall be adjusted annually as provided in Subsection 4.2.6.

* + 1. Time of Payment (if applicable). The fees required pursuant to Subsection

4.2.3 and Subsection 4.2.4 shall be paid to COUNTY no sooner than the application for a building permit but no later than prior to final inspection for each residential unit. The fees

to be paid shall be the fee in effect at the time of payment.

* + 1. Annual Fee Adjustment (if applicable). The fees required pursuant to

Subsection 4.2.3 and Subsection 4.2.4 shall be adjusted annually during the term of this Agreement on January 1 of each year of this Agreement in accordance with the changes in the Consumer Price Index for All Urban Consumers in the Los Angeles-Riverside-Orange County, CA Area (hereinafter CPI) published monthly by the U.S. Bureau of Labor Statistics. The annual adjustment shall be calculated in the following manner:

* + - 1. Divide the CPI for the month of October (insert year after Agreement is proposed to be entered into) into the CPI for the month of October immediately preceding the anniversary in which said fees are to be adjusted.
      2. Multiply the quotient obtained by the calculation in Paragraph (a) above times said fees.
      3. The result of the multiplication obtained in Paragraph (b) above shall constitute the fees payable during the succeeding year.

If the CPI specified herein is discontinued or revised during the term of this Agreement, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would have been obtained if the CPI had not been discontinued.

In no event shall the fees be less than the fees set forth in Subsection 4.2.3 and Subsection 4.2.4.

* + 1. Credits (if applicable). OWNER shall be entitled to credit against the fees

required pursuant to Subsection 4.2.1 for the dedication of land and/or the construction of improvements as specifically set forth in Exhibit “E”. To the extent that Subsection 4.2.6 results in an increase in the fees payable pursuant to 4.2.3, then the credit provided in this subsection for Public Facilities as specified in Exhibit “E” shall be likewise increased by the same percentage. No increase in the credits set forth in Exhibit “E” shall be allowed for any item which is not specifically identified as a Public Facility Credit on Exhibit “E”.

* + 1. Continuation of Public Benefits . Should all or any portion of Property

become part of a city or another county, implementation of the Public Benefits set forth in Section 4.2 shall continue in full force and effect. During any incorporation or annexation proceeding, OWNER shall agree that any incorporation or annexation may be conditioned so as to require OWNER to implement said Public Benefits.

1. FINANCING OF PUBLIC IMPROVEMENTS.

If deemed appropriate, COUNTY and OWNER will cooperate in the formation of any special assessment district, community facilities district or alternate financing mechanism to pay for the construction and/or maintenance and operation of public infrastructure facilities required as part of the Development Plan. OWNER also agrees that it will not initiate and/or cooperate in the formation of any such special assessment district, community facilities district or alternate financing mechanism involving any other public agency without the prior written consent of the COUNTY.

Should the Property be included within such a special assessment district, community facilities district or other financing entity, the following provisions shall be applicable:

1. In the event OWNER conveys any portion of the Property and/or public facilities constructed on any portion of the Property to COUNTY or any other public entity and said Property is subject to payment of taxes and/or assessments, such taxes and/or assessments shall be paid in full by OWNER prior to completion of any such conveyance.
2. If OWNER is in default in the payment of any taxes and/or assessments, OWNER shall be considered to be in default of this Agreement and COUNTY may, in its sole discretion, initiate termination proceedings pursuant to Section 8.4 of this Agreement.

Notwithstanding the foregoing, it is acknowledged and agreed by the parties that nothing contained in this Agreement shall be construed as requiring COUNTY or the COUNTY Board of Supervisors to form any such district or to issue and sell bonds.

1. REVIEW FOR COMPLIANCE.
   1. Annual Review. The TLMA Director shall review this Agreement annually, on or

before the Effective Date, in order to ascertain the good faith compliance by OWNER with the terms of the Agreement. In order to facilitate this review, OWNER shall submit an annual monitoring report, in a form specified by the TLMA Director, providing all information necessary to evaluate such good faith compliance as determined by the Planning Director.

OWNER shall pay the annual review and administration fee set forth in Ordinance No. 671 prior to submission of each annual monitoring report. Prior to the issuance of any grading permit or building permit for any part of the Project, OWNER shall prepay a fee deposit in an amount equal to three times the annual review and administration fee set forth in Ordinance No. 671 (the “Monitoring Fee Prepayment”). The Monitoring Fee Prepayment shall be retained by the COUNTY until termination of this Agreement, may be used by the COUNTY at any time if there is a failure to pay any part of the annual monitoring and administration fees required under Ordinance No. 671, and shall be promptly replenished by OWNER up to the original required amount after notice by COUNTY to OWNER. Failure by OWNER to submit an annual monitoring report, on or before the Effective Date of each year in the form specified by the TLMA Director, to pay any part of the annual monitoring and administration fee required under Ordinance No. 671, to make the Monitoring Fee Prepayment or to replenish the Monitoring Fee Prepayment shall constitute a default by OWNER under this Agreement.

* 1. Special Review. The Board of Supervisors may order a special review of

compliance with this Agreement at any time. The TLMA Director, in consultation with the Executive Office and County Counsel, shall conduct such special reviews.

* 1. Procedure.

1. During either an annual review or a special review, OWNER shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on OWNER.
2. Upon completion of an annual review or a special review, the TLMA Director shall submit a report to the Board of Supervisors setting forth the evidence concerning good faith compliance by OWNER with the terms of this Agreement and his recommended finding on that issue.
3. If the Board finds on the basis of substantial evidence that OWNER has complied in good faith with the terms and conditions of this Agreement, the review shall be concluded.
4. If the Board makes a preliminary finding that OWNER has not complied in good faith with the terms and conditions of this Agreement, the Board may modify or terminate this Agreement as provided in Section 6.4 and Section 6.5. Notice of default as provided under Section 8.4 of this Agreement shall be given to OWNER prior to or concurrent with, proceedings under Section 6.4 and Section 6.5.
   1. Proceedings Upon Modification or Termination. If, upon a finding under Section
   2. , COUNTY determines to proceed with modification or termination of this Agreement, COUNTY shall give written notice to OWNER of its intention so to do. The notice shall be given at least ten calendar days prior to the scheduled hearing and shall contain:
      1. The time and place of the hearing;
      2. A statement as to whether or not COUNTY proposes to terminate or to

modify the Agreement; and,

* + 1. Such other information as is reasonably necessary to inform OWNER of the nature of the proceeding.
  1. Hearing on Modification or Termination. At the time and place set for the hearing

on modification or termination, OWNER shall be given an opportunity to be heard and shall be entitled to present written and oral evidence. OWNER shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on OWNER. If the Board of Supervisors finds, based upon substantial evidence, that OWNER has not complied in good faith with the terms or conditions of the Agreement, the Board may terminate this Agreement or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the County. The decision of the Board of Supervisors shall be final, subject only to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

* 1. Certificate of Agreement Compliance. If, at the conclusion of an annual or special

review, OWNER is found to be in compliance with this Agreement, COUNTY shall, upon request by OWNER, issue a Certificate of Agreement Compliance (“Certificate”) to OWNER stating that after the most recent annual or special review and based upon the information known or made known to the TLMA Director and Board of Supervisors that (1) this Agreement remains in effect and (2) OWNER is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of

compliance, shall state whether the Certificate is issued after an annual or special review and shall state the anticipated date of commencement of the next annual review. OWNER may record the Certificate with the County Recorder.

Whether or not the Certificate is relied upon by transferees or OWNER, COUNTY shall not be bound by a Certificate if a default existed at the time of the annual or special review, but was concealed from or otherwise not known to the TLMA Director or Board of Supervisors.

1. INCORPORATION AND ANNEXATION.
   1. Intent. If all or any portion of the Property is annexed to or otherwise becomes a

part of a city or another county, it is the intent of the parties that this Agreement shall survive and be binding upon such other jurisdiction.

* 1. Incorporation. If at any time during the term of this Agreement, a city is

incorporated comprising all or any portion of the Property, the validity and effect of this Agreement shall be governed by Section 65865.3 of the Government Code.

* 1. Annexation. OWNER and COUNTY shall oppose, in accordance with the

procedures provided by law, the annexation to any city of all or any portion of the Property unless both OWNER and COUNTY give written consent to such annexation.

1. DEFAULT AND REMEDIES.
   1. Remedies in General. It is acknowledged by the parties that COUNTY would not

have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that COUNTY shall not be liable in damages to OWNER, or to any successor in interest of OWNER, or to any other person, and OWNER covenants not to sue for damages or claim any damages:

1. For any breach of this Agreement or for any cause of action which arises out of this Agreement; or
2. For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or
3. Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.
   1. Specific Performance. The parties acknowledge that money damages and remedies

at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties for the following reasons:

1. Money damages are unavailable against COUNTY as provided in Section

8.1 above.

1. Due to the size, nature and scope of the project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, OWNER may be foreclosed from other choices it may have had to utilize the Property or portions thereof. OWNER has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate OWNER for such efforts.
   1. General Release. Except for nondamage remedies, including the remedy of

specific performance and judicial review as provided for in Section 6.5, OWNER, for itself, its successors and assignees, hereby releases the COUNTY, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the COUNTY because it entered into this Agreement or because of the terms of this Agreement. OWNER acknowledges familiarity with and hereby waives the provisions of Section 1542 of the Civil Code which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE A MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

OWNER Initials OWNER Initials OWNER Initials

* 1. Termination or Modification of Agreement for Default of OWNER. Subject to the

provisions contained in Subsection 6.5 herein, COUNTY may terminate or modify this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER under this Agreement, or to comply in good faith with the terms of this Agreement (hereinafter referred to as “default”); provided, however, COUNTY may terminate or modify this Agreement pursuant to this Section only after providing written notice to OWNER of default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured, OWNER has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

* 1. Termination of Agreement for Default of COUNTY. OWNER may terminate this

Agreement only in the event of a default by COUNTY in the performance of a material term of this Agreement and only after providing written notice to COUNTY of default setting forth the

nature of the default and the actions, if any, required by COUNTY to cure such default and, where the default can be cured, COUNTY has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

* 1. Attorney’s Fees. In any action at law or in equity to enforce or interpret this

Agreement, or otherwise arising out of this Agreement, including without limitation any action for declaratory relief or petition for writ of mandate, the parties shall bear their own attorneys’ fees.

1. THIRD PARTY LITIGATION.
   1. General Plan Litigation. COUNTY has determined that this Agreement is

consistent with its General Plan and that the General Plan meets all requirements of law. OWNER has reviewed the General Plan and concurs with COUNTY's determination. The parties acknowledge that:

1. Litigation may be filed challenging the legality, validity and adequacy of certain provisions of the General Plan; and,
2. If successful, such challenges could delay or prevent the performance of this

Agreement and the development of the Property.

COUNTY shall have no liability in damages under this Agreement for any failure of COUNTY to perform under this Agreement or the inability of OWNER to develop the Property as contemplated by the Development Plan of this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

* 1. Third Party Litigation Concerning Agreement. OWNER shall defend, at its

expense, including attorneys' fees, indemnify, and hold harmless COUNTY, its officers, agents, employees, and independent contractors from any claim, action or proceeding against COUNTY, its officers, agents, employees, or independent contractors to attack, set aside, void, or annul the approval of this Agreement or the approval of any permit granted pursuant to this Agreement.

COUNTY shall promptly notify OWNER of any such claim, action or proceeding, and COUNTY shall cooperate in the defense. If COUNTY fails to promptly notify OWNER of any such claim, action or proceeding, or if COUNTY fails to cooperate in the defense, OWNER shall not thereafter be responsible to defend, indemnify, or hold harmless COUNTY. COUNTY may in its discretion participate in the defense of any such claim, action or proceeding.

* 1. Indemnity. In addition to the provisions of 9.2 above, OWNER shall indemnify

and hold COUNTY, its officers, agents, employees and independent contractors free and harmless from any liability whatsoever, based or asserted upon any act or omission of OWNER, its officers, agents, employees, subcontractors and independent contractors, for property damage,

bodily injury, or death (OWNER's employees included) or any other element of damage of any kind or nature, relating to or in any way connected with or arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, failure and conveyance of the public improvements, save and except claims for damages arising through the sole active negligence or sole willful misconduct of COUNTY. OWNER shall defend, at its expense, including attorneys' fees, COUNTY, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. COUNTY may in its discretion participate in the defense of any such legal action.

* 1. Environment Assurances. OWNER shall indemnify and hold COUNTY, its

officers, agents, and employees free and harmless from any liability, based or asserted, upon any act or omission of OWNER, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and OWNER shall defend, at its expense, including attorneys' fees, COUNTY, its officers, agents and employees in any action based or asserted upon any such alleged act or omission.

COUNTY may in its discretion participate in the defense of any such action.

* 1. Reservation of Rights. With respect to Sections 9.2, 9.3 and 9.4 herein, COUNTY

reserves the right to either (1) approve the attorney(s) which OWNER selects, hires or otherwise engages to defend COUNTY hereunder, which approval shall not be unreasonably withheld, or

(2) conduct its own defense, provided, however, that OWNER shall reimburse COUNTY forthwith for any and all reasonable expenses incurred for such defense, including attorneys' fees, upon billing and accounting therefor.

* 1. Survival. The provisions of Sections 8.1 through 8.3, inclusive, Section 8.6 and

Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement.

1. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit OWNER, in any manner, at OWNER's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. COUNTY acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with OWNER and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. COUNTY will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

1. Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.
2. The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the COUNTY in the manner specified herein for giving notices, shall be entitled to receive written notification from COUNTY of any default by OWNER in the performance of OWNER's obligations under this Agreement.
3. If COUNTY timely receives a request from a Mortgagee requesting a copy of any notice of default given to OWNER under the terms of this Agreement, COUNTY shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to OWNER. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.
4. Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement.
5. MISCELLANEOUS PROVISIONS.
   1. Recordation of Agreement. This Agreement and any amendment, modification,

termination or cancellation thereof shall be recorded with the County Recorder by the Clerk of the Board of Supervisors within the period required by Section 65868.5 of the Government

Code.

* 1. Entire Agreement. This Agreement sets forth and contains the entire understanding

and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

* 1. Severability. If any term, provision, covenant or condition of this Agreement shall

be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provision of the Public Benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and COUNTY would not have entered into this Agreement but for such provisions, and therefore in the event such provisions are determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

* 1. Interpretation and Governing Law. This Agreement and any dispute arising

hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of

construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

* 1. Section Headings. All section headings and subheadings are inserted for

convenience only and shall not affect any construction or interpretation of this Agreement.

* 1. Gender and Number. As used herein, the neuter gender includes the masculine and

feminine, the feminine gender includes the masculine, and the masculine gender includes the feminine. As used here, the singular of any word includes the plural.

* 1. Joint and Several Obligations. If at any time during the term of this Agreement the

Property is owned, in whole or in part, by more than one OWNER, all obligations of such OWNERS under this Agreement shall be joint and several, and the default of any such OWNER shall be the default of all such OWNERS. Notwithstanding the foregoing, no OWNER of a single lot which has been finally subdivided and sold to such OWNER as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement except as provided under Section 4 hereof.

* 1. Time of Essence. Time is of the essence in the performance of the provisions of

this Agreement as to which time is an element.

* 1. Waiver. Failure by a party to insist upon the strict performance of any of the

provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

* 1. No Third Party Beneficiaries. This Agreement is made and entered into for the sole

protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

* 1. Force Majeure. Neither party shall be deemed to be in default where failure or

delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the party’s employment force). If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

* 1. Mutual Covenants. The covenants contained herein are mutual covenants and also

constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

* 1. Successors in Interest. The burdens of this Agreement shall be binding upon, and

the benefits of this Agreement shall inure to, all successors in interest to the parties to this

Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

* 1. Counterparts. This Agreement may be executed by the parties in counterparts,

which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

* 1. Jurisdiction and Venue. Any action at law or in equity arising under this Agreement

or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

* 1. Project as a Private Undertaking. It is specifically understood and agreed by and

between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between COUNTY and OWNER is that of a government

entity regulating the development of private property and the owner of such property.

* 1. Further Actions and Instruments. Each of the parties shall cooperate with and

provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgement or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

* 1. Eminent Domain. No provision of this Agreement shall be construed to limit or

restrict the exercise by COUNTY of its power of eminent domain.

* 1. Agent for Service of Process. In the event OWNER is not a resident of the State of

California or it is an association, partnership or joint venture without a member, partner or joint venturer resident of the State of California, or it is a foreign corporation, then in any such event, OWNER shall file with the TLMA Director, upon its execution of this Agreement, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon OWNER. If for any reason service of such process upon such agent is not feasible, then in such event OWNER may be personally served

with such process out of this County and such service shall constitute valid service upon OWNER. OWNER is amenable to the process so served, submits to the jurisdiction of the Court so obtained and waives any and all objections and protests thereto. OWNER for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20

U.S.T. 361, T.I.A.S. No. 6638).

* 1. Designation of COUNTY Officials. Except for functions to be performed by the

Board of Supervisors, COUNTY may, at any time and in its sole discretion, substitute any COUNTY official to perform any function identified in this Agreement as the designated responsibility of any other official. COUNTY shall provide notice of such substitution pursuant to Section 2.7; provided, however, the failure to give such notice shall not affect the authority of the substitute official in any way.

* 1. Authority to Execute. The person or persons executing this Agreement on behalf

of OWNER warrants and represents that he has the authority to execute this Agreement on behalf of his corporation, partnership or business entity and warrants and represents that he has the authority to bind OWNER to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and

year set forth below.

COUNTY OF RIVERSIDE

Dated: By

Chairman, Board of Supervisors

ATTEST:

KECIA HARPER-IHEM

Clerk of the Board

By

Deputy

(SEAL)

OWNER:

Dated: By:

Title:

Dated: By:

Title:

(ALL SIGNATURES SHALL BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC. EXECUTION ON BEHALF OF ANY CORPORATION SHALL BE BY TWO CORPORATE OFFICERS.)

Recorded at request of Clerk, Board of Supervisors County of Riverside

When recorded return to TLMA Director

County of Riverside

4080 Lemon Street, 14th Floor Riverside, CA 92501

DEVELOPMENT AGREEMENT NO.

A DEVELOPMENT AGREEMENT BETWEEN COUNTY OF RIVERSIDE

and

AND OTHERS

Specific Plan No. -

Development Agreement No.

TABLE OF CONTENTS

SECTION HEADING PAGE

RECITALS 1

1. DEFINITIONS AND EXHIBITS… 4
   1. Definitions… 5
      1. Agreements… 5
      2. COUNTY 5
      3. Development… 5
      4. Development Approvals 5
      5. Development Exaction… 6
      6. Development Plan… 6
      7. Effective Date… 6
      8. Existing Development Approvals… 6
      9. Existing Land Use Regulations 7
      10. Land Use Regulations 7
      11. OWNER 8
      12. Mortgagee 8
      13. Project… 8
      14. Property 8
      15. Reservations of Authority 8
      16. Subsequent Development Approvals… 8
      17. Subsequent Land Use Regulations… 8
   2. Exhibits… 9
2. GENERAL PROVISIONS 9
   1. Binding Effect of Agreement 9
   2. Ownership of Property 9
   3. Term… 9
   4. Transfer… 10
      1. Right to Transfer… 10
      2. Release of Transferring Owner… 11
      3. Subsequent Transfer… 12
      4. Partial Release of Purchaser, Transferee, or Assignee

of Industrial or Commercial Lot 12

* + 1. Termination of Agreement With Respect to Individual Lots Upon Sale to Public and Completion of

Construction… 12

* 1. Amendment or Cancellation of Agreement… 13
  2. Termination 12
  3. Notices… 14

1. DEVELOPMENT OF THE PROPERTY… 16
   1. Rights to Develop… 17
   2. Effect of Agreement on Land Use Regulations 17
   3. Timing of Development 17
   4. Phasing Plan… 18
   5. Changes and Amendments… 18
   6. Reservations of Authority 19
      1. Limitations, Reservations and Exceptions… 20
      2. Subsequent Development Approvals… 21
      3. Modification or Suspension by State or Federal Law… 22
      4. Intent… 22
   7. Public Works… 22
   8. Provision of Real Property Interests by COUNTY 23
   9. Regulation by Other Public Agencies… 23
   10. Tentative Tract Map Extensions 24
   11. Vesting Tentative Maps 24
2. PUBLIC BENEFITS… 24
   1. Intent… 25
   2. Public Benefits Commercial or Industrial Projects 25
      1. Description of Significant Employment Site and/or Other Significant Benefit 25
      2. Timeline for Construction of Major Public Infrastructure 25
      3. Continuation of Public Benefits… 25
3. FINANCING OF PUBLIC IMPROVEMENTS… 26
4. REVIEW FOR COMPLIANCE… 27
   1. Annual Review 27
   2. Special Review… 28
   3. Procedure 28
   4. Proceedings Upon Modification or Termination… 29
   5. Hearing on Modification or Termination 29
   6. Certificate of Agreement Compliance 30
5. INCORPORATION AND ANNEXATION 31
   1. Intent… 31
   2. Incorporation… 31
   3. Annexation… 31
6. DEFAULT AND REMEDIES… 31
   1. Remedies in General… 31
   2. Specific

Performance 32

* 1. General Release 33
  2. Termination or Modification of Agreement for Default

of OWNER 33

* 1. Termination of Agreement for Default of COUNTY… 34
  2. Attorney’s Fees… 34

1. THIRD PARTY LITIGATION 35
   1. General Plan Litigation 35
   2. Third Party Litigation Concerning Agreement… 35
   3. Indemnity 36
   4. Environment Assurances 36
   5. Reservation of Rights… 37
   6. Survival… 37
2. MORTGAGEE PROTECTION… 37
3. MISCELLANEOUS PROVISIONS 39
   1. Recordation of Agreement 39
   2. Entire Agreement… 40
   3. Severability 40
   4. Interpretation and Governing Law 40
   5. Section Headings… 41
   6. Gender and Number… 41
   7. Joint and Several Obligations… 41
   8. Time of Essence 41
   9. Waiver 41
   10. No Third Party Beneficiaries… 42
   11. Force Majeure 42
   12. Mutual Covenants 42
   13. Successors in Interest… 42
   14. Counterparts… 43
   15. Jurisdiction and Venue 43
   16. Project as a Private Undertaking 43
   17. Further Actions and Instruments… 44
   18. Eminent Domain… 44
   19. Agent for Service of Process 44
   20. Designation of County Officials… 45

- - - - Signatures……………………………………………………………………………………...46, 47

Development Agreement No.

EXHIBIT “A” LEGAL DESCRIPTION OF THE PROPERTY

Development Agreement No.

EXHIBIT “B”

MAP SHOWING PROPERTY AND ITS LOCATION

Development Agreement No.

EXHIBIT C EXISTING DEVELOPMENT APPROVALS

SPECIFIC PLAN

ZONING

LAND DIVISIONS

OTHER DEVELOPMENT APPROVALS

The development approvals listed above include the approved maps and all conditions of approval.

COPIES OF THE EXISTING DEVELOPMENT APPROVALS LISTED ABOVE ARE ON FILE IN THE RIVERSIDE COUNTY PLANNING DEPARTMENT AND ARE

INCORPORATED HEREIN BY REFERENCE.

Development Agreement No.

EXHIBIT D

EXISTING LAND USE REGULATIONS

1. Riverside County General Plan as amended through Resolution No. 2014-040
2. Ordinance No. 348 as amended through Ordinance No. 348.4773
3. Ordinance No. 448 as amended through Ordinance No. 448.A
4. Ordinance No. 457 as amended through Ordinance No. 457.103
5. Ordinance No. 458 as amended through Ordinance No. 458.14
6. Ordinance No. 460 as amended through Ordinance No. 460.152 (adopted 7/15/14, effective 60 days)
7. Ordinance No. 461 as amended through Ordinance No. 461.10
8. Ordinance No. 509 as amended through Ordinance No. 509.2
9. Ordinance No. 547 as amended through Ordinance No. 547.7
10. Ordinance No. 555 as amended through Ordinance No. 555.19
11. Ordinance No. 617 as amended through Ordinance No. 617.4
12. Ordinance No. 650 as amended through Ordinance No. 650.5
13. Ordinance No. 659 as amended through Ordinance No. 659.12
14. Ordinance No. 663 as amended through Ordinance No. 663.10
15. Ordinance No. 671 as amended through Ordinance No. 671.20
16. Ordinance No. 673 as amended through Ordinance No. 673.3
17. Ordinance No. 679 as amended through Ordinance No. 679.4
18. Ordinance No. 682 as amended through Ordinance No. 682.4
19. Ordinance No. 726 as amended through Ordinance No. 726
20. Ordinance No. 743 as amended through Ordinance No. 743.3
21. Ordinance No. 748 as amended through Ordinance No. 748.1
22. Ordinance No. 749 as amended through Ordinance No. 749.1
23. Ordinance No. 752 as amended through Ordinance No. 752.2
24. Ordinance No. 754 as amended through Ordinance No. 754.2
25. Ordinance No. 787 as amended through Ordinance No. 787.7
26. Ordinance No. 806 as amended through Ordinance No. 806
27. Ordinance No. 810 as amended through Ordinance No. 810.2
28. Ordinance No. 817 as amended through Ordinance No. 817.1
29. Ordinance No. 824 as amended through Ordinance No. 824.13
30. Ordinance No. 847 as amended through Ordinance No. 847.1
31. Ordinance No. 859 as amended through Ordinance No. 859.2
32. Ordinance No. 875 as amended through Ordinance No. 875.1
33. Resolution No. 2014 -034 Establishing Procedures and Requirements of the County of Riverside for the Consideration of Development Agreements

COPIES OF THE EXISTING LAND USE REGULATIONS LISTED ABOVE ARE ON FILE IN THE RIVERSIDE COUNTY PLANNING DEPARTMENT AND ARE INCORPORATED HEREIN BY REFERENCE.

Development Agreement No.

EXHIBIT “E” PUBLIC FACILITY CREDITS